

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HOWARD CROSS
728 E. Price Street
Philadelphia, PA 19144

Plaintiff,

v.

FOOD FOR ALL, INC., d/b/a
FOOD FOR LIFE
7425 Old York Road
Elkins Park, PA 19027
and
DAVID DOBSON
c/o Food For All, Inc.
7425 Old York Road
Elkins Park, PA 19027

Defendants.

CIVIL ACTION

No.

JURY TRIAL DEMANDED

CIVIL ACTION COMPLAINT

Plaintiff, Howard Cross (hereinafter referred to as "Plaintiff"), by and through his undersigned counsel, hereby avers as follows:

I. Introduction

1. Plaintiff initiates the instant action to redress violations by Defendant of 42 U.S.C. § 1981. Plaintiff was unlawfully terminated by Defendants, and he seeks damages as set forth herein.

II. Jurisdiction and Venue

2. This action is initiated pursuant to a federal law. The United States District Court for the Eastern District of Pennsylvania has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the claims arise under the laws of the United States.

3. This Court may properly maintain personal jurisdiction over Defendants because their contacts with this state and this judicial district are sufficient for the exercise of jurisdiction in order to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in International Shoe Co. v. Washington, 326 U.S. 310 (1945) and its progeny.

4. Venue is properly laid in this District pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2), because Defendants reside in and/or conduct business in this judicial district and because a substantial part of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district.

III. Parties

5. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

6. Plaintiff is an adult individual, with an address as set forth in the caption.

7. Defendant Food for All, Inc., d/b/a Food for Life (hereinafter "Defendant Corporation") is an Elkins Park, Pennsylvania based non-profit organization providing catering, banquet, marriage services, and various functions at historic locations.

8. Defendant David Dobson (hereinafter "Defendant Dobson") is the owner, operator and executive of Defendant Corporation.

9. At all times relevant herein, Defendants acted by and through their agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendants.

IV. Factual Background

10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

11. Plaintiff is a black (African-American) male.

12. In or about mid-June 2009, Plaintiff was hired by Defendants.

13. Defendants manage and operate on large plots of land providing banquet and retreat services at historic locations.

14. Plaintiff was pre-approved through a hiring program and did not interview with his soon-to-be daily management prior to working for Defendants.

15. Plaintiff worked for Defendants as a laborer and performed other physical/manual tasks as requested or necessary (including cleaning, repairs, painting, and other labor such as transportation of materials within the properties of Defendants).

16. Plaintiff was never given policies, handbook procedures, or documents by Defendants reflecting protocols for complaints of discrimination.

17. Prior to Plaintiff's termination, discussed *infra*, Plaintiff never received any disciplinary action from Defendants.

18. During Plaintiff's employment, he was supervised by a Caucasian male, one Daut Dahiraj, also known as David Tariq, but referred to in the workplace as "Happy Hands."

19. Happy Hands belittled, embarrassed and made discriminatory comments to Plaintiff regularly during Plaintiff's tenure with Defendants because of Plaintiff's race. Happy Hands was overtly racist towards the small number of black employees who worked for Defendants, which prompted several black employees to complain of racial discrimination within Defendants' workplace.

20. Happy Hands made discriminatory comments/statements to Plaintiff such as: "I hate working with 'you people' (in reference to blacks), negative comments about Plaintiff and other blacks being from the ghetto, statements about blacks being drug dealers and/or prostitutes, many other racial references/jokes/gestures, and at times, he would use the term 'nigger' in the presence of Plaintiff and other black employees. Such comments were said often and almost every time Happy Hands interacted with Plaintiff.

21. Happy Hands did not just conduct himself in a racially discriminatory manner verbally, he also was physically racist in that - as to black employees - he threatened them with violence.

22. For example, Happy Hands attempted to hit one David Jones (a black male) with a shovel, and he attempted to hit Plaintiff with a tree branch, physical acts of hostility he did not commit towards non-black employees.

23. Plaintiff, like other black employees, complained of racial discrimination, but Defendant's owner, sole shareholder, and operator, Defendant Dobson (Caucasian), ignored complaints of racial discrimination, perpetuated the hostile work environment, and terminated employees when they complained of racial discrimination, including Plaintiff.

24. Plaintiff was terminated in or about September of 2009 after having worked for Defendant for approximately three (3) months for having difficulty working with others, but the only person Plaintiff had difficulty working with was Happy Hands because Happy Hands treated him a racially discriminatory manner.

25. Plaintiff did nothing warrant termination, and his termination was pretextual based upon his race and/or complaints of racial discrimination.

Count I
Violation of 42 U.S.C. Section 1981
(Retaliation – Wrongful Termination)
- Against Both Defendants –

26. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

27. Plaintiff was terminated by Defendants in retaliation for making complaints of racial discrimination.

28. These actions as aforesaid constitute violations of 42 U.S.C. Section 1981.

Count II
Violation of 42 U.S.C. Section 1981
(Racial Discrimination – Wrongful Termination)
- Against Both Defendants –

29. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

30. Upon information and belief, Plaintiff was terminated from Defendants in substantial part because of his race.

31. These actions as aforesaid constitute violations of 42 U.S.C. Section 1981.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendants are to promulgate and adhere to a policy prohibiting discrimination and retaliation in the future against any employee(s);

B. Defendants are to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendants' illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, and benefits.

C. Plaintiff is to be awarded actual damages, as well as damages for the pain, suffering, and humiliation caused by Defendants' actions;

D. Plaintiff is to be awarded punitive damages as permitted by applicable law in an amount believed by the Court or trier of fact to be appropriate to punish Defendants for their willful, deliberate, malicious, and outrageous conduct and to deter Defendants or other employers from engaging in such misconduct in the future;

E. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate; and

F. Plaintiff is to be awarded the costs and expenses of this action and a reasonable attorney's fees as provided by applicable federal and state law.

G. Plaintiff is to receive a trial by jury as set forth in the caption of this Complaint.

Respectfully submitted,

KARPF, KARPf & CERUTTI, P.C.

By: 

Ari R. Karpf, Esq
3331 Street Road
Two Greenwood Square
Suite 128
Bensalem, PA 19020
(215) 639-0801

Dated: November 15, 2012

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

HOWARD CROSS

CIVIL ACTION

Food for All, Inc., d/b/a Food for Life et al. NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

11/15/2012
Date

Ari R. Karpf
Attorney-at-law

Plaintiff
Attorney for

(215) 639-0801

(215) 639-4970

akarpf@karpf-law.com

Telephone

FAX Number

E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 728 E. Price Street, Philadelphia PA 19144
 Address of Defendant: 7425 Old York Road, EIKINS PARK PA 19027
 Place of Accident, Incident or Transaction: DEFENDANTS PLACE OF BUSINESS
 (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
 (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
 Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
 Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
 Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
 Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
 (Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) _____
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
 (Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Ari R. Karpf, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 11/15/2012

Attorney-at-Law

ARK2484

Attorney I.D.# 91538

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/15/2012

Attorney-at-Law

ARK2484

Attorney I.D.# 91538

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

CROSS, HOWARD

(b) County of Residence of First Listed Plaintiff Philadelphia

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Karpf, Karpf & Cerutti, P.C., 3331 Street Road,
Two Greenwood Square, Suite 128, Bensalem,
PA 19020, (215) 639-0801, akarpf@karpf-law.com

DEFENDANTS

FOOD FOR ALL, INC., d/b/a FOOD FOR LIFE, et al.

County of Residence of First Listed Defendant Montgomery

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☒ 3 Federal Question (U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State ☐ 1 PTF ☐ 1 DEFCitizen of Another State ☐ 2 PTF ☐ 2 DEFCitizen or Subject of a Foreign Country ☐ 3 PTF ☐ 3 DEFIncorporated or Principal Place of Business In This State ☐ 4 PTF ☐ 4 DEFIncorporated and Principal Place of Business In Another State ☐ 5 PTF ☐ 5 DEFForeign Nation ☐ 6 PTF ☐ 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment & Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
☐ 153 Recovery of Overpayment of Veteran's Benefits
☐ 160 Stockholders' Suits
☐ 190 Other Contract
☐ 195 Contract Product Liability
☐ 196 Franchise

PERSONAL INJURY

☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault, Libel & Slander
☐ 330 Federal Employers' Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
☐ 360 Other Personal Injury

PERSONAL INJURY

☐ 362 Personal Injury - Med. Malpractice
☐ 365 Personal Injury - Product Liability
☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY

☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

☐ 610 Agriculture
☐ 620 Other Food & Drug
☐ 625 Drug Related Seizure of Property 21 USC 881
☐ 630 Liquor Laws
☐ 640 R.R. & Truck
☐ 650 Airline Regs.
☐ 660 Occupational Safety/Health
☐ 690 Other

☐ 710 Fair Labor Standards Act
☐ 720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt. Reporting & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc. Security Act

☐ 462 Naturalization Application
☐ 463 Habeas Corpus - Alien Detainee
☐ 465 Other Immigration Actions

☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

☐ 820 Copyrights
☐ 830 Patent
☐ 840 Trademark

☐ 861 HIA (1395ff)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(e))

☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 871 IRS—Third Party 26 USC 7609

☐ 400 State Reapportionment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce
☐ 460 Deportation
☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 480 Consumer Credit
☐ 490 Cable/Sat TV
☐ 810 Selective Service
☐ 850 Securities/Commodities/Exchange
☐ 875 Customer Challenge 12 USC 3410
☐ 890 Other Statutory Actions
☐ 891 Agricultural Acts
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Information Act
☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original Proceeding☐ 2 Removed from State Court☐ 3 Remanded from Appellate Court☐ 4 Reinstated or Reopened☐ 5 Transferred from another district (specify)☐ 6 Multidistrict Litigation☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 1981

Brief description of cause:

Violations of 42 USC 1981

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No

VIII. RELATED CASE(S)

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

11/15/2012

DATE

SIGNATURE OF ATTORNEY OF RECORD

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